

LAS VEGAS POLICE DEPARTMENT	PERSONNEL
SUBJECT: <i>Compensation, Benefits, and Conditions of Work (Physical Exams)</i>	NUMBER: PER.5
EFFECTIVE DATE: <i>9 September 2010</i>	REVIEW DATE: <i>[Handwritten signature]</i>
AMENDS/SUPERSEDES:	APPROVED: <i>Chief of Police Gary Gold</i>
NMMLEPSC STANDARDS: <i>PER.03.05</i>	NMSA:

I. **PURPOSE:**

The purpose of this policy is to ensure the efficient and effective management of the Compensation, Benefits, and Conditions of work function by providing administrative guidance that identifies the responsibilities and compensation, benefits and conditions of work within the uniform and other components of the department.

II. **POLICY:**

It is the policy of the Las Vegas Police Department to manage the function of compensation, benefits and conditions of work in an effective and efficient manner by coordinating the efforts of uniform and other organizational components as provided in this policy.

III. **APPLICABILITY:**

This policy is applicable to all commissioned and non-commissioned personnel of the Las Vegas Police Department.

IV. **REFERENCES:**

- A. Las Vegas Police Department
- B. New Mexico Law Enforcement Accreditation Personnel 03.06- 1

V. **DEFINITIONS:**

- A. Benefits: non-monetary employment compensation
- B. FFDE: Fitness for duty evaluation

VI. PROCEDURE:

- A. To provide the Department with a consistent process and establish specific guidance for addressing concerns regarding an employee's ability to work. The primary goal of the Fitness for Duty Evaluation (FFDE) is to ensure the safety of the affected employee, peer employees, and the public by determining an employee's ability to perform the essential functions of their job and where applicable determine those steps necessary to qualify an affected employee for return to work. This policy, however, is not intended to be all encompassing and there is no intent to limit other reasonable and appropriate practices.
 - B. The policy of this department is to create consistent, fairly applied protocols in instances where FFDE is determined to be the appropriate course of action. Where just cause exists, the department reserves the right to temporarily remove an active member from duty, or to temporarily prohibit an inactive member from returning to duty, until such time as a FFDE is conducted by an external and trained professional and an opinion rendered. An FFDE shall not be considered any form of discipline or stigma.
 - C. Any sworn employee may be subject to a medical, psychological, and fit for duty test or any other test the Chief of Police, his designee or Law Enforcement Academy deems necessary. If a question arises as to a officer's ability to perform regular duties due to illness or injury, the Department may require the officer to submit to a medical examination by a physician named by and paid for by the Department. An examination required of an employee in a permanent full time position will be provided at no cost to the employee.
- D. **Fitness for Duty:**
1. All members are required to maintain sufficient physical and psychological fitness to perform the essential functions of their positions in a safe, effective and efficient manner. Should reasonable cause exist to question a member's fitness for duty, the Chief of Police or his/her designee may temporarily remove an active member from duty, or to temporarily prohibit an inactive member from returning to duty, until such fitness is evaluated.
 2. Only those members who successfully complete prescribed fitness evaluations will be eligible to remain in their positions. This policy does not intend to illegally discriminate against members or potential members of the Las Vegas Police Department on sex, race, ethnic background, religion, age or unknown disabilities.

E. Definition of sufficiently fit:

1. Sufficiently fit means employees are physically, mentally, and psychologically prepared and can perform the essential functions of their positions. An essential function is one that the job exists for and needs to be performed, a function that only few employees are available to share, or a function that is central to a highly specialized position. Management has the responsibility and authority under law to decide and define the essential functions of the positions in the department. It does this by drawing on its knowledge of the job, written job descriptions, knowing the time required to perform the function, the criticality of performing the function, or that the function is not being performed properly.
2. Without creating an exclusive listing of all possible essential functions for each position in the Police Department, the following illustrate the essential functions inherent in all positions:
 - a. Having regular and predictable attendance.
 - b. Meeting acceptable levels of production standards, for the position, established by management.
 - c. Meeting acceptable levels of efficiency standards established for performance of a function.
 - d. Performing a responsibility, duty, or task efficiently and safely.
 - e. Behaving within social norms.

F. Definition as reasonable as related to fitness to duty:

1. Reasonable cause means those facts that would lead a reasonable department employee to question another department employees' fitness for duty with concern to the department's mission, public image, and public or department employee safety. Reasonable cause does not mean that employees concerned about another employee's fitness for duty must have proof beyond a doubt or even a preponderance of evidence to support action. However, it does require more than personal opinion or mere suspicion, or suspicion based on hearsay. Reasonable cause is based on substantial evidence.
3. Reasonable cause is a subjective standard based on objective facts. Personal opinions that are unsupported by facts will not establish reasonable cause. Reasonable cause does not coexist with malice. Any employee who is shown through the investigatory process to have used this policy as a subterfuge to maliciously damage another will be subject to disciplinary action up to and including termination and face the possibility of a civil action being initiated against him/her by the damaged employee.

G. Indicators which the employer may consider using the FFDE:

1. Although not all inclusive, the following may be indicators that most frequently lead the employer to question the capacity of the employee to carry out the functions of their job and therefore require an FFDE.
 - a. a known threat of violence to self or others.
 - b. signs or symptoms of hallucinations, delusions, severe memory loss, or other suspected psychological impairment that interferes with job functioning and has not been treated or has not been remedied with treatment.
 - c. dramatic behavioral changes from a previously observed normal behavior of the employee.
 - d. a known incident of or suspected pattern of domestic violence.
 - e. addiction to a controlled substance.
 - f. sexual misconduct.
 - g. a pattern of force or power abuses or misuse of power unresponsive to corrective measure.
 - h. a self-report of job-interfering psychological problems that do not seem to be responding to assistance.
 - i. the failure to return to acceptable job performance levels and/or behaviors from a traumatic event.
 - j. a pattern of performance problems unresponsive to corrective measures and inappropriate for discipline or termination.
 - k. Observed inability to physically perform the required job tasks necessary for the execution of job duties or required tasks in training.
 - l. Clarification of conflicting medical documentation.
 - m. Clarification of Inconsistencies between medical documentation and observed employee behavior.
 - n. Other observed or reported conditions reasonably raising the question of an employee's continuing psychological or physical suitability to carry out essential job functions.

H. Employers Responsibility:

1. When a supervisor has concerns, or has had concerns voiced to them regarding an employee's fitness for duty:
2. The supervisor will immediately confer with the respective Commander of that section, when an employee's specific behavior raises the possibility that a FFDE is needed.
3. The Commander will notify the Chief of Police and work with the concerned supervisor(s) to evaluate the need for conducting a FFDE as opposed to taking other appropriate action.
4. When a determination that no FFDE is necessary, other appropriate action will be taken, and any related documentation will be handled in accordance with existing policy and/or "labor contract".
5. When an FFDE is deemed necessary, the following actions will take place:
 - a. The employee needing evaluation will be informed, in writing, of the necessity to participate in a FFDE.
 - b. The employee will be placed in an appropriate duty or leave status based on the circumstances and in accordance with existing policy and/or "labor contract".
 - c. Depending on circumstances and duty status, sworn officers may be required to provide their badges, gun, and commission card to their commander or supervisor.
 - d. The employer will coordinate an appointment for the employee to be evaluated by the FFDE provider (evaluator). In this setting, the employer is considered the client of the evaluator and will pay for the services of the evaluator.
 - e. The employer will provide the evaluator with the following information prior to the evaluation appointment:
 1. The specific reason for the referral
 2. The employee's current position description

3. All appropriate documentation relevant to the employee's specific behavior that has caused the employer's concern including but not limited to: recorded observations from supervisors, peers or citizens. Additionally, the employer will provide any other document or information held by or reasonably accessible to the employer if required by the evaluator in order to conduct or complete the FFDE.
 4. Documents detailing the employer's attempts to remedy the problem such as training records, work plans, counseling memos and disciplinary documents
 5. A statement that a written report of the evaluator's relevant findings will be required, and the report should restrict the disclosure of private information to the minimum necessary to satisfy the purpose of the examination and to support the evaluation, findings, conclusions, and recommendations.
- f. Following the receipt of the evaluator's report, the Commander will notify the Chief of Police and will consult with the supervisor to review and, if necessary, act on the evaluation report from the evaluator.
 - g. On a case by case basis, the Chief of Police will determine whether or not the employee shall receive a copy of the evaluator's report.
 - h. The supervisor will monitor the employee's post-evaluation progress on a regular basis.
 1. If released to unrestricted duty: The supervisor will review the employee's work as required by the specific circumstances.
 2. If released to modified work: The supervisor will review work consistent with existing Department policy.
 3. If not released to work: Employment status will be based on further evaluations and treatment possibilities. If none, then termination will be sought.
 - i. The respective Commander will periodically review, with the supervisor, the performance of an employee who has been returned to full duty status following a FFDE to track what approaches and remedies have aided the employee and establish best practices.

I. Employees Responsibility:

1. The employee gives FFDE evaluator formal written authorization for the FFDE.
2. The employee provides a signed and dated FFDE Release of Information Authorization Form and gives it to the FFDE evaluator so that the evaluator can provide a written report to the client employer .
3. The employee provides accurate, complete, and timely background medical history information and documentation, as requested by the FFDE evaluator.
4. The employee participates fully, accurately, and in a timely manner, in the evaluation process.
5. The employee cooperates with the employer and performs responsibly in recommended remedial action, temporary transitional assignments and other prescribed courses of action.
6. The employee participates fully in periodic follow-up performance reviews with the supervisor.
7. Providing purposely false statements, documentation, or records or failing to participate or participating in a manner that is counterproductive may result in disciplinary action up to termination.

J. Use of FFDE Information:

1. Information contained in the evaluation will be used to:
 - a. satisfy an employer's reasonable concern regarding the employee's ability to safely, and effectively do their job.
 - b. build strategies to restore the employee to full-functioning duty status.
 - c. clarify conflicting medical documentation.
 - d. clarify inconsistencies between medical documentation and employee's behavior.
2. The employer will be entitled to a report of the employee's psychological and/or medical information regarding the presence or absence of personality traits, characteristics, disorder, propensities, or conditions that would interfere with the performance of the essential job functions. However, nothing in this section is intended to limit information, which in the professional judgment of the evaluator, needs to be included.

3. The report should contain a clear opinion whether the employee is:
 - a. cleared to return to unrestricted duty.
 - b. cleared for duty with temporary, transitional, modifications per Department policy.
 - c. restricted from duty pending completion of recommended actions aimed at restoring the employee's fitness for duty.
 - d. restricted from duty with little likelihood of returning to work.
 - d. all opinions will include adequate reasoning to support the evaluator's judgment.

K. Management of FFDE Documentation:

1. All documents, generated by the employer, in support of the need for a FFDE will be managed by the employer, in accordance with existing laws, rules, policies, or applicable "labor contract".
2. All information will be filed in the employee's personnel file.
3. No documents related to FFDE activity will be kept in a supervisor's working file once response to the FFDE request has been provided and resolution has been achieved.
4. If cleared for duty with temporary, transitional modifications or not immediately released for duty, the evaluator will make recommendations regarding counseling, modified job assignment, mentoring, training or other remedies by which the employee can be helped to return to work.
5. If it is determined that the employee receives a copy of the evaluator's report, then it is the responsibility of the employer to ensure that a copy of that report is given to the employee.

VII. ATTACHMENTS

None